

1 UNITED STATES DISTRICT COURT
2 FOR THE SOUTHERN DISTRICT OF CALIFORNIA
3

4 UNITED STATES OF AMERICA, .
5 Plaintiff, . No. 10-CR-1805-JAH
6 v. . July 19, 2010
7 DANIEL EDWARD CHOVAN, . 10:50 a.m.
8 Defendant. . San Diego, California
9

10 TRANSCRIPT OF MOTION HEARING
11 BEFORE THE HONORABLE JOHN A. HOUSTON
12 UNITED STATES DISTRICT JUDGE

13 APPEARANCES:

14 For the Plaintiff: United States Attorney's Office
15 By: CAROLINE PINEDA HAN, ESQ.
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17 For the Defendant: Federal Defenders of San Diego, Inc.
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22 Court Reporter: Melinda S. Setterman, RPR, CRR
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25 Reported by Stenotype, Transcribed by Computer

1 SAN DIEGO, CALIFORNIA, JULY 19, 2010, 10:50 A.M.

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3 THE CLERK: Number 17, 10-CR-1805, United States of
4 America vs Daniel Edward Chovan, scheduled for motions.

10:51 5 MR. JONES: Joshua Jones Federal Defenders on behalf
6 of Mr. Chovan, who is present on bond.

7 THE COURT: Good morning.

8 MS. HAN: Good morning, Your Honor. Caroline Han on
9 behalf of the United States.

10:51 10 THE COURT: Good morning.

11 Do we have business other than my ruling?

12 MR. JONES: The only thing that -- I wasn't sure if
13 Your Honor was aware or familiar that the Seventh Circuit did
14 issue an opinion on this issue just last week in the case
10:52 15 United States vs Skoin.

16 THE COURT: Yes, I am familiar.

17 MR. JONES: Okay. Then, Your Honor, no, there is no
18 additional -- it is only submitted on the case and that we do
19 believe that case does provide -- that case does provide some
10:52 20 insight to this case.

21 THE COURT: All right.

22 Mr. Chovan, you moved to dismiss this indictment on
23 three grounds. One, that your second amendment rights were
24 violated. Secondly, that your civil rights had been restored
10:52 25 within the meaning of the federal statute, therefore, this case

1 has to be dismissed. And third, you argue that this matter
2 should be dismissed due to -- on equal protection grounds.

3 The Court will issue an order in this regard: In
4 essence, counsel and Mr. Chovan, for our purposes here today,
10:53 5 the Court is of the mind that the statute involved in this case
6 is a presumptively lawful, regulatory measure within the
7 province of Heller, number one; and number two, that the level
8 of scrutiny in this case would not be strict scrutiny and that
9 the Court need not reach which level of scrutiny, in that this
10:54 10 case falls within an exception under Heller and that it is
11 presumptively lawful; and third, the Court finds that in light
12 of Ninth Circuit law your restoration argument is without
13 merit; and, lastly, with respect to equal protection, the Court
14 also finds that argument is without merit.

10:54 15 I'll issue an order explaining in detail my position
16 with respect to each of the points raised by you, and that
17 order shall be filed this week.

18 All right. The motion to dismiss is denied.

19 MR. JONES: And then, Your Honor, would Your Honor
10:54 20 just be confirming the further motion hearing date that was set
21 in this matter with motions to be filed by this Friday? I
22 believe we have two dates already.

23 THE COURT: Yes, yes. We'll proceed with motions as
24 scheduled.

10:55 25 MR. JONES: Thank you, Your Honor.

1 MS. HAN: Thank you, Your Honor.

2 THE COURT: That's all.

3 (Recess at 10:55 a.m.)

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6 C-E-R-T-I-F-I-C-A-T-I-O-N

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8 I hereby certify that I am a duly appointed, qualified
9 and acting official Court Reporter for the United States
10 District Court; that the foregoing is a true and correct
11 transcript of the proceedings had in the aforementioned cause;
12 that said transcript is a true and correct transcription of my
13 stenographic notes; and that the format used herein complies
14 with the rules and requirements of the United States Judicial
15 Conference.

16 DATED: April 18, 2011, at San Diego, California.

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/s/ Melinda S. Setterman

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Melinda S. Setterman,
Registered Professional Reporter
Certified Realtime Reporter

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